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NSY PORTSMOUTH
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TRANSMITTAL LETTER FOR THE SIGNATURE COPY OF THE RECORD OF DECISION
FOR OPERABLE UNIT 4 (OU 4) AND U S NAVY RESPONSES TO MAINE DEPARTMENT OF
ENVIRONMENTAL PROTECTION COMMENTS NSY PORTSMOUTH ME

7/29/2013
TETRA TECH



TETRA TECH

PITT-07-13-111

July 29, 2013

Project Number 112G02100

Mr. Matthew Audet
USEPA, Region 1
5 Post Office Square
Suite 100
Mail Code OSRR07-3
Boston, Massachusetts 02109-3912

Mr. Iver McLeod
Maine Department of Environmental Protection
State House Station 17
Augusta, Maine 04333-0017

Reference: Contract No. N62470-08-D-1001 (CLEAN)
Contract Task Order No. WE13

Subject: Signature copy of Record of Decision for Operable Unit 4 and response to comment
Portsmouth Naval Shipyard (PNS), Kittery, Maine

Dear Mr. Audet/Mr. McLeod:

On behalf of the U.S. Navy, Tetra Tech is pleased to provide to U.S. Environmental Protection Agency Region I (USEPA) and Maine Department of Environmental Protection (MEDEP) one copy of the subject document. As discussed among the Navy, USEPA, and MEDEP, the document was revised to reflect the removal of a portion of MS-12A from the remediation area based on the Shipyard renovation project within a portion of MS-12A. A memorandum explaining this revision is included as Appendix G of the ROD. The document was also revised based on the response to MEDEP comment dated May 29, 2013 on the draft document. As provided in USEPA email dated May 30, 2013, USEPA had no comments on the draft document. The response to MEDEP comment is enclosed.

The signature copy of the ROD is being provided for USEPA signature and for MEDEP concurrence. MEDEP concurrence letter, when received, will be included in Appendix A of the final signed copy of the ROD. The final ROD (hard copies and electronic copies) will be distributed after signature by the Navy and USEPA.

If you have any comments or questions, or if additional information is required, please contact Ms. Elizabeth Middleton at 757.341.1985.

For the Community Restoration Advisory Board (RAB) members; if you have any comments or questions on these issues, they can be provided to the Navy at a RAB meeting, by calling the Public Affairs office at 207.438.1140 or by writing to:

Portsmouth Naval Shipyard
Public Affairs Office
Attn: Danna Eddy
Portsmouth, NH 03804-5000

Sincerely,

Deborah J. Cohen, PE
Project Manager

DJC/clm
Enclosure

Tetra Tech

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Mr. Matthew Audet
Environmental Protection Agency
Mr. Iver McLeod
Maine Department of Environmental Protection
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Without Enclosure

Mr. Doug Bogen (e-mail)
Ms. Mary Marshall (e-mail)
Mr. Peter Britz (e-mail)
NH Fish & Game (D. Grout) (e-mail)
Ms. Carolyn Lepage (e-mail)
ME Dept. of Marine Resources (D. Nault) (e-mail)
Dr. Roger Wells (e-mail)
PNS Code 100PAO (e-mail)
Ms. Diana McNabb (e-mail)
Mr. Jack McKenna
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Paul Dombrowski (e-mail)
NIRIS RDM

Hard Copy

NAVFAC MIDLANT. (Code OPTE3/E. Middleton)
(1 copy and response to comment)
NAVFAC MIDLANT PWD ME (Code PRN4, M. Thyng)
(1 copy and response to comment)
NOAA (K. Finkelstein)
(Response to comment only)
U.S. Fish and Wildlife (K. Munney)
(Response to comment only)

**RESPONSE TO MEDEP COMMENT DATED MAY 29, 2013
DRAFT RECORD OF DECISION FOR OPERABLE UNIT 4
PORTSMOUTH NAVAL SHIPYARD, KITTERY, MAINE**

1. **Comment:** App. E, Table E-1, State Location-Specific ARARs and TBCs, Maine Wetland Protection Rules. MS-12 should be added to Evaluation/Action To Be Taken as all waters around the Shipyard are wetlands.

Response: MS-12 will be added to the “Evaluation/Action To Be Taken” as requested. The text will also be revised to note that because remedial activities will be designed to meet the requirement of the exception in 06-096 CMR 310 (5)(C)(6)(b), no functional assessment or compensation will be required.

Per 06-096 CMR 310 (5)(C)(6)(b):

“Exceptions. Neither a functional assessment nor compensation is required for the following single, complete projects:

(b) Coastal Wetlands. A coastal wetland alteration that does not cover, remove or destroy marsh vegetation, does not fill more than 500 square feet of intertidal or subtidal area, and has no adverse effect on marine resources or on wildlife habitat as determined by the Department of Marine Resources or the Department of Inland Fisheries & Wildlife as applicable.”

The following provides the specific text revisions (bold and italics).

Medium/Activity	Requirement/Citation	Status	Synopsis	Evaluation/Action To Be Taken
Wetlands	Maine Wetland Protection Rules (06 096 CMR Part 310)	Applicable	Standards are provided for protection of wetlands, as defined in MEDEP Chapter 1000 Guidelines for Municipal Shoreline Zoning Ordinances. Jurisdiction under the rules includes the area adjacent to the wetlands, which is the area within 75 feet of the normal high-water line. Activities that have an unreasonable impact on wetlands are prohibited.	Remedial activities for MS-01, MS-03/MS-04, <i>and MS-12 (A and B)</i> will be conducted to avoid impacts to wetlands and coastal wetlands which include tidal and subtidal lands. <i>No functional assessment or compensation will be required based on the exception in Part 310 (5)(C)(6)(b).</i>